

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CITIMORTGAGE, INC.,

Plaintiff,

VS.

MDGG TRUST;

Defendant.

2:15-cv-00154-JCM-VCF

ORDER

[Application for an Order for Service by Publication and Enlargement of Time (#13)]

Before the court is the Ex Parte Application for an Order for Service by Publication and Enlargement of Time (#13).

Plaintiff filed its complaint on January 27, 2015, against Defendant MDGGG Trust. (#1). Summons issued to Defendant MDGGG Trust on February 6, 2015. (#12). On May 21, 2015, plaintiff filed the instant motion for service by publication. (#13).

Plaintiff asks this court to permit service of the summons and complaint on Defendant MDGGG Trust by publication. *Id.* Plaintiff also asks this court to extend the time in which to effectuate service under Federal Rule of Civil Procedure 4(m). *Id.*

Service By Publication

Pursuant to Fed. R. Civ. P. 4(e)(1), “an individual – other than a minor, an incompetent person, or a person whose waiver had been filed – may be served in a judicial district of the United States by following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made.” Under Rule 4(e)(1) of the Nevada Rules of Civil Procedure, “when the person on whom service is to be made resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid

1 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge
2 thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action
3 exists against the defendant in respect to whom the service is to be made, and that the defendant is a
4 necessary or proper party to the action, such court or judge may grant an order that the service be made
5 by the publication of summons."

6 Plaintiff asserts that the after diligent effort, Plaintiff is unable to serve the Defendant within the
7 State of Nevada. (#13). In support of this assertion, plaintiff provided the court with affidavits of
8 attempted services (see #13-1). Plaintiff asserts that the last known address for Defendant is 8025 W.
9 Russell Road, #11012, Las Vegas, Nevada 89113. *Id.*

10 The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting
11 service by publication of the summons and the complaint on the Defendant is warranted. Pursuant to Rule
12 4(e)(1)(iii), the publication must be made in a newspaper, published in the State of Nevada, for a period
13 of 4 weeks, and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

14 Extension For Service

15 Fed. R. Civ. P. 4(m) requires a defendant to be served within 120 days after the complaint is filed.
16 If "the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court
17 must extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m).

18 Here, Plaintiff must effectuate service on Defendant by May 27, 2015. (#1). Plaintiff asserts that
19 an additional 60 days is required to effect service by publication, and asks this court to extend the 4(m)
20 deadline to July 21, 2015. *Id.* As plaintiff has demonstrated "good cause" for its failure to effectuate
21 service and provided support for its request for an extension, the court will extend the 4(m) deadline until
22 July 21, 2015. *See* Fed. R. Civ. P. 4(m).

23 Accordingly, and for good cause shown,

24 IT IS ORDERED that Plaintiff's Ex Parte Application for an Order for Service by Publication and
25 Enlargement of Time (#13) is GRANTED.

1 IT IS THEREFORE ORDERED that plaintiff is permitted to serve the Defendant MDGGG Trust
2 by publication with a copy of the summons and complaint to be mailed to the defendant at its last known
3 address by certified U.S. Mail, return receipt requested.

4 IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1)(i)
5 and (iii), the summons in this action shall be served by publication in a newspaper, published in the State
6 of Nevada, for a period of four weeks and at least once a week during that time.

7 IT IS FURTHER ORDERED that the deadline to effect service of process shall be extended up to
8 and including July 21, 2015.

9 DATED this 9th day of June, 2015.

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13 CAM FERENBACH
14 UNITED STATES MAGISTRATE JUDGE
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